

**STATE OF IDAHO  
OUTFITTERS AND GUIDES LICENSING BOARD  
BOARD MEETING**

**FINAL MINUTES**

**December 10- 11, 2018**

**(KEY: MSC = MOTION: MADE, SECOND: CARRIED  
MSF = MOTION: MADE, SECOND: FAILED)**

**THE REGULAR MEETING OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD WAS CALLED TO ORDER AT 9:00 A.M. ON DECEMBER 10, 2018 IN THE MEETING ROOM AT THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD OFFICE, 1365 N. ORCHARD STREET ROOM 172 BOISE, IDAHO 83706. MEMBERS BOB BAROWSKY (CHAIRMAN), GEORGE MCQUISTON, LOUISE STARK AND WAYNE HUNSUCKER WERE PRESENT. ALSO PRESENT WERE EXECUTIVE DIRECTOR LORI THOMASON, OFFICE SUPERVISOR AMANDA HARPER, BOARD ATTORNEY ROGER HALES, AND EDUCATION AND ENFORCEMENT CHIEF RANDY WADLEY. BOARD MEMBER TOM LONG WAS NOT PRESENT.**

**IOGA LEGISLATIVE PROPOSAL FOR STATUTE CHANGE** – Jeff Bitton representing the Idaho Outfitters and Guides Association (IOGA), presented a draft copy of the proposed legislative change to IDFG Title 36 Chapter 4 and Idaho Code 36-2107(j), (k) and (l).

**PROPOSED STATUE CHANGE (IOGA) WITH STAFF SUSAN KNAPEK** – IOGLB staff member Susan Knappek presented the fiscal and work load impact to the staff that the legislative change that the IOGA is proposing would have on the IOGLB. Ms. Knappek explained that due to the added work load, the office would have to hire another staff member. It was also discussed that there needs to be a clear distinction in the proposed rule change in wording between allocated tags and set aside tags.

**IDFG UPDATE – New Commissioner** – Brad Compton with the IDFG informed the Board that Governor Butch Otter has appointed Tim Murphy as the new commissioner for the southwest. Tim Murphy is most recently retired as the State Director for the BLM. **New Director for Fish and Game** – Director Virgil Moore has indicated his intent to retire; therefore, the Commission is interviewing candidates this week for the position. **White-Tailed Deer** – The Commission has directed the department to revise the White-Tailed Deer and Mule Deer management plans. The solid draft is due to the Commission by their March meeting. Mr. Compton said that the focal areas are for mule deer hunter congestion and buck quality. He stated that there are several individuals in the Clearwater Region that have indicated that the quality of the bucks has gone down. **Sawtooth Zone** – The Commission made a motion to rescind the January 2018 motion to implement controlled hunts. The Commission has also given direction to move forward with rulemaking. The rule will be that if you apply for moose, goat, sheep, deer, elk or prong-horn you are ineligible to purchase a Sawtooth tag either the first day or first week. Mr. Compton stated that the intent of the rule is to reduce demand. **Legislation** – There are no proposed legislative proposals going before the Legislature this coming year; however, there are fifteen rule dockets going through the legislative review process. **Fisheries Management Plan** – The Commission adopted a new five-year fisheries management plan and set seasons for the next three years. **Suspended Steelhead Fishing** – There has been an agreement reached between IDFG and the plaintiffs, so the steelhead fishing suspension has been lifted, except for a couple of sections that will remain suspended. The management monitoring plan that the permit is issued on is out for public review and will be until December 13<sup>th</sup> 2018. There is anticipation that a permit will be in place by March 1, 2019.

**IDFG PREDATOR DEFINITION** – Director Lori Thomason stated that the IOGLB received from a permit administrator a request of what constitutes predators. She stated that we have bear, cougar and wolf in the IOGLB listing of predators. Brad Compton stated that the Commission does not have the authority to classify predators. He pointed out that predators are an ecological function, so anything that subsists wholly or partly on living animals is ecologically considered a predator. He stated that in Idaho Code 36-201 coyotes, jackrabbits, skunks, weasels, starlings and racoons are listed as predatory wildlife. **(MOTION: HUNSUCKER; SECOND: STARK; AYES – MCQUISTON AND BAROWSKY; NAYES – NONE) TO IDENTIFY PREDATOR AS BEAR, COUGAR, WOLF AND INCLUDE THE LIST AS OUTLINED IN IDAHO CODE 36-201 OF COYOTES, JACKRABBITS, SKUNKS, WEASELS, STARLINGS AND RACOONS.**

**IOGLB ACTION/DISCUSSION – Flying B Ranch** – Office staff Susan Knappek informed the Board that Flying B Ranch has asked if they would be able to secure two more mule deer tags. Attorney Roger Hales said that due to not having any pool tags there are no further tags available to be allocated. **(MOTION: HUNSUCKER; SECOND: MCQUISTON; AYES – STARK AND BAROWSKY; NAYES – NONE) WRITE FLYING B RANCH AND LET THEM KNOW THAT THERE ARE NO TAGS AVAILABLE AND SHOULD THERE BECOME MORE TAGS AVAILABLE IN THE FUTURE THAT THEY WILL BE APPROPRIATELY DISTRIBUTED ACCORDING TO HISTORICAL USE.**

**cont. Requesting Tags prior to December 1** – Staff member Susan Knappek asked how the Board would like to handle requests that are submitted for allocated tags prior to December 1<sup>st</sup>. She reminded the Board that the rule states that beginning December 1<sup>st</sup> an outfitter may request a voucher for an allocated tag by submitting a written request identifying capped zone, type of tag requested and name of client using the allocated tag. Ms. Knappek stated that the requests that she has received include the outfitters allocation and then names for tags out of the surplus pool. By direction from the Board and there no longer being an allocation manual with the temporary rule in place, the requests that were made by outfitters that are requesting more than their allocation are to be prioritized by the outfitter and anything over the allocation will be distributed in order of being received after the December 1<sup>st</sup> date. **(MOTION: HUNSUCKER; SECOND: STARK; AYES – MCQUISTON AND BAROWSKY; NAYES – NONE) TO ALLOW OUTFITTERS TO SUBMIT NAMES TO FILL THEIR ALLOCATION PRIOR TO DECEMBER 1, BUT TAGS OUT OF THE SURPLUS POOL CAN ONLY BE REQUESTED AS OF DECEMBER 1, AS SET FORTH IN THE TEMPORARY RULE IDAPA 25.01.01**

**cont. Approval 5-year recalculation Lolo, Diamond Creek, Sawtooth - (MOTION: MCQUISTON; SECOND: HUNSUCKER; AYES – STARK AND BAROWSKY; NAYES – NONE) TO ACCEPT THE RECALCULATION AS PRESENTED AND IN THE INSTANCE THERE IS A CHANGE IN ALLOCATION BY THE COMMISSION IN THE SAWTOOTH ZONE, THE BOARD WILL REVISIT THE ISSUE**

*Meeting recessed for lunch at 12:10 p.m. Meeting reconvened at 1:35 p.m. with all listed above present.*

*Board Attorney Joan Callahan joined the meeting.*

**BOARD ATTORNEY UPDATE – Temporary Rule** – Attorney Joan Callahan reviewed the revised temporary rule that was drafted after the public hearings that were held in June and August 2018. **(MOTION: STARK; SECOND: HUNSUCKER; AYES – BAROWSKY; NAYES – MCQUISTON)**

**APPROVE THE REVISED TEMPORARY RULE WITH THE MINOR CORRECTIONS AND ADDRESSING THE FACTOR FORMULA AS IT RELATES TO SECTION 57-02(a)(i)**

**(MOTION: STARK; SECOND: HUNSUCKER; AYES – BAROWSKY; NAYES – MCQUISTON) IN REFERENCE TO LOLO B, DIAMOND A, SAWTOOTH A AND SAWTOOTH B ZONES APPLY THE AMENDED TEMPORARY RULE TO THEIR RECALCUATIONS**

**cont. Litigation – Allred’s Adventures, LLC** – Attorney Hales informed the Board that he has fully submitted the record of Allred’s Adventures, LLC judicial review of the decision for the Board not to grant him additional tags as requested to the court. He stated that they are stipulating the briefing schedule. He thinks that the hearing may take place mid-April. Mr. Hales reminded the Board that Mr. Allred also filed a declaratory judgment action against the Board and that the Board opposed that complaint. Due to Mr. Allred failing to serve it timely, the complaint has been dismissed; however, Mr. Allred does have the ability to refile it. Mr. Hales also let the Board know that Mr. Allred rejected the settlement proposal that the Board had made which would have resolved all the legal matters. **Legal Opinion on Park and Recreation** – Mr. Hales had been requested by the Board at the August 2018 Board meeting to render an opinion regarding legality on municipality or a non-profit outfit in Idaho without a license. Mr. Hales informed the Board that he has submitted that to the Board. He stated that these cases are analyzed on a case by case basis dependent upon the facts associated with the entity and what they are doing, who’s doing it, etc. Mr. Hales said the summary of his conclusion as an act relates to a municipality, if the municipality advertises or holds itself out to the public for hire or its employees provide services to the public in context to recreational activities that require an outfitter or guide license, there is no provision that would provide an exemption for the municipality. He stated that if they are doing the acts that require a license, they are in violation. When it comes to a non-profit, the non-profit must be a true non-profit under section 501 (c) (3), its purpose is to provide outdoor experiences to young person under twenty-one years of age and to its leaders and it must be dedicated to serving primarily its bona fide members on a not-for-profit basis. **Guiding Boats with Family Members** - Director Thomason let Attorney Hales know that IOGLB was asked if it was legal for an outfitter to allow a client to row a boat with their family members in it. Mr. Hales stated that the IDAPA Rule 55 states that all float boats occupied by three or more clients shall be under control of a licensed guide with the exception that a boat guide trainee may operate a boat under the supervision of a licensed boatman. It goes on to say kayaks and canoes and clients rowing crafts they own are also exempt from this rule. Mr. Hales said that the outfitter is still responsible for all the clients in the boat and that the outfitter may need to check with their insurance company due to the liability. **Wood River Middle School** - Mr. Hales said that Wood River Middle School has sent in a letter asking about a recreational program that is provided to their students that could include rock climbing, back packing, white water rafting and snowshoeing relating to avalanche education and involves an overnight camp. Mr. Hales stated that he would work with the Executive Director to draft a letter in response to Wood River Middle School’s request due to educational entities being treated differently. He also would like to review the Attorney Generals recommendation on this issue.

**TECHNICAL ADVISORY COMMITTEE (TAC) - Application for Abe Traven** – TAC committee member Hannah North explained that an application for Abe Traven to work for Idaho Mountain Guides, LLC has been received. She stated that Mr. Traven has all the minimum qualifications as set forth in IOGLB guidelines, but that the TAC committee’s recommendation was that they felt he should have more extensive medical knowledge. Attorney Hales pointed out that the rules are very clear as to what the qualifications are for all guides. He said that you cannot require more than the minimum qualifications, and that Abe Traven meets the minimum qualifications. **(MOTION: HUNSUCKER; SECOND: MCQUISTON; AYES – STARK AND BAROWSKY; NAYES – NONE) TO APPROVE THE**

**APPLICATION FOR ABE TRAVEN TO BE A LICENSED GUIDE FOR IDAHO MOUNTAIN GUIDES, LLC**

**cont. TAC Proposed Rule Change** - TAC committee members Hannah North and Doug Colwell went over what the minimum qualifications are to hold a technical mountaineering guide license. They discussed proposing a change to the technical mountaineering activity to have level one and level two. Attorney Hales recommended that if the TAC committee would like to move forward with a change to the current rule on technical mountaineering, they should present to the Board at the March 2019 board meeting a proposal to the change of language in the current rule.

**DIRECTORS REPORT – Administrative Hearing Committee** – Director Thomason informed the Board that the Administrative Hearing Officer Committee has not been reappointed. **IDFG MOU** – Director Thomason explained that the Memorandum of Understanding (MOU) between IOGLB and IDFG expires on January 15, 2019. She said that the MOU was not yet signed, but it should go through the IDFG January Commission meeting and then back to IOGLB by the March 2019 Board meeting.

**Jones Sport Fishing, LLC on SN3** – Director Thomason let the Board know that she and Office Supervisor Amanda Harper went to Pocatello to meet with the BLM and Idaho Fish and Game to discuss Jones Sport Fishing, LLC and the restrictions that have been placed on the SN3 section of their license. She explained that the restrictions that were placed on Jones Sport Fishing's license is due to resource management issues. She stated that at the meeting it was discussed that Jones Sport Fishing, LLC be "grandfathered" and be the only outfitter allowed at the base of the American Falls Dam. There has not been a formal request just a discussion to Grandfather Jones Sport Fishing on the SN3 at the base of the dam. Should there be a formal request, Board Attorney Roger Hales recommended that the restrictions be on a temporary one year at a time basis, and not "grandfather" them in. He advised Director Thomason to issue a letter to the other two outfitters to let them know that for this season Jones Sport Fishing, LLC will be the only outfitter allowed in that portion of the SN3. **BES Technologies Licensing Database Update** – Director Thomason informed the Board that there is a contract and MOU that has been drafted up between IOGLB and BES Technologies. The contract is for the provider and sets forth exactly what they will be doing. The current providers contract expired in October 2018, so the MOU allows BES Technologies to "fix" any issues free of charge in the current database in the instance that the current provider does not want to continue to do any maintenance. **(MOTION: STARK; SECOND: HUNSUCKER; AYES – MCQUISTON AND BAROWSKY; NAYES – NONE) TO APPROVE THE CONTRACT AND MOU BETWEEN IOGLB AND BES TECHNOLOGIES AND AUTHORIZE THE DIRECTOR TO SIGN BOTH**

**OFFICE SUPERVISOR'S REPORT – NONUSE REVIEW** – Office Supervisor Amanda Harper explained that the subcommittee, appointed by the Board at the August 2018 Board meeting to handle the non-use review of licensable waters, deemed all the response letters that were received by the outfitters reasonable and that two of the outfitters have sold their business. She also asked the Board how they would like to move forward with the outfitters that did not respond to the non-use letter. **(MOTION: STARK; SECOND: MCQUISTON; AYES – HUNSUCKER AND BAROWSKY; NAYES – NONE) TO ACCEPT THE NON-USE REPORT FROM THE SUBCOMMITTEE AS REASONABLE RESPONSES**

**(MOTION: HUNSUCKER; SECOND: STARK; AYES – BAROWSKY; NAYES – NONE ABSTAIN - MCQUISTON) SEND A HEARING NOTICE LETTER TO THE OUTFITTERS THAT DID NOT RESPOND TO THE NON-USE LETTER AND INCLUDE THE RELINQUISHMENT FORMS**

**cont. Rivers End Adventures application for Turkey, Waterfowl and Upland Game Bird** – Ms. Harper informed the Board that River's End Adventures has made application for the SN11 and Brownlee Reservoir to provide waterfowl, turkey and upland game bird activities. She stated that there is a policy that states that the Snake River does not allow those activities, but that Brownlee Reservoir was not listed and is taken on a case by case basis. The Board directed Ms. Harper to have Fish and Game provide further clarification on biological concerns in the area and table the discussion until a later Board meeting.

**KYLE SANDY** – Ms. Harper informed the Board that Kyle Sandy has made application to provide power boating on Anderson Ranch Reservoir. She let the Board know that all documents have been received from the applicant but that the permitting agency had indicated that they are not granting any new permits at this time because they are working on updating permits from twenty years ago.

**(MOTION: HUNSUCKER; SECOND: STARK; AYES – MCQUISTON AND BAROWSKY; NAYES – NONE) APPROVE THE APPLICATION FOR KYLE SANDY AT ANDERSON RANCH RESERVOIR TO BE EFFECTIVE AS OF APRIL 1, 2019 WHILE WAITING FOR THE PERMIT AGENCY TO ISSUE A PERMIT.**

**Cont. ADAM HOCKING** – Ms. Harper explained that Adam Hocking has applied to be on Deadwood Reservoir. She stated that there is currently one outfitter already licensed on Deadwood Reservoir, but the permitting agency has met with the IOGLB and indicated that there doesn't seem to be enough activity to warrant another outfitter on that reservoir. The Fish and Game comment form indicated that there are not enough camping sights to allow for the overnight camp trips that was outlined in the operating plan. The Board directed Ms. Harper to get more information from the applicant to find out what their plan will be since the Fish and Game does not want to approve the overnight camping.

**Transporting Equipment**– Ms. Harper let the Board know that a question has been asked for clarification, if equipment is being rented out and being delivered is an outfitter license required. Attorney Roger Hales stated that a license is not required if you are only renting and delivering equipment.

**EDUCATION AND ENFORCEMENT CHIEF'S REPORT** – Education and Enforcement Chief Randy Wadley explained the current number of complaints and case investigations so far this year. **Cases and Investigations** – 67 total investigations for 2018.

Education and Enforcement Chief Wadley asked the Board to accept the following fine payments:

**Case No 2018-052** Benjamin M. Briscoe for three misdemeanor convictions in Bingham County not disclosed on renewal guide license application. **MSC (MOTION: STARK; SECOND: MCQUISTON; AYES: HUNSUCKER AND BAROWSKY; NAYES: - NONE) TO ACCEPT THE \$300 FINE FROM BENJAMIN M. BRISCOW AND ONE YEAR GENERAL PROBATION**

**Case No 2018-060** Benjamin Hawkins for two misdemeanor convictions in Lemhi County not disclosed on renewal guide license application. **MSC (MOTION: MCQUISTON; SECOND: STARK; AYES: HUNSUCKER AND BAROWSKY; NAYES: - NONE) TO ACCEPT THE \$300 FINE FROM BENJAMIN HAWKINS AND ONE YEAR GENERAL PROBATION**

**Case No 2018-0061** Robert Hvinden for a misdemeanor conviction in Adams County not disclosed. **MSC (MOTION: HUNSUCKER; SECOND: STARK; AYES: BAROWSKY; NAYES: - MCQUISTON) TO ACCEPT THE \$200 FINE FROM ROBERT HVINDEN**

**FINANCIAL REPORT** – The Board reviewed the financial report for July, August, September, October and November 2018. **MSC (MOTION: STARK; SECOND: HUNSUCKER; AYES –**

**MCQUISTON AND BAROWSKY; NAYES – NONE) TO ACCEPT THE FINANCIAL REPORT AS PRESENTED**

**CONSENT AGENDA** – The Board reviewed the Consent Agenda. **MSC (MOTION: HUNSUCKER; SECOND: STARK; AYES – MCQUISTON AND BAROWSKY; NAYES – NONE) TO ACCEPT THE CONSENT AGENDA AS PRESENTED**

*Chairman Barowsky recessed the meeting at 5:00 p.m. until 9:30 a.m. December 11, 2018.*

*Meeting reconvened at 9:30 a.m. at 1365 N Orchard St Suite 172 Boise, ID 83706 Board Chairman Bob Barowsky, Board member Wayne Hunsucker, Board member Louise Stark, Board member George McQuiston, Board Attorney Roger Hales, Executive Director Lori Thomason, Education and Enforcement Chief Randy Wadley, Office Supervisor Amanda Harper and Board Prosecuting Attorney Kristen Atwood.*

**Colton D. Montgomery Case No. 18-16909-03– Guide License Hearing** – A guide license hearing was conducted by the Board’s prosecutor Kristen Wood. Colton D. Montgomery, the applicant, was identified and placed under oath. Mrs. Atwood explained that Director Thomason, by Board policy, had deferred Mr. Montgomery’s guide license application due to the Enforcement Division’s review and scoring of Mr. Montgomery’s criminal convictions not disclosed on his application. Mr. Montgomery is seeking a guide license to work for Diamond D Ranch Inc. Mr. Montgomery testified, and certain exhibits were introduced into evidence. **MSC (MOTION: STARK; SECOND: HUNSUCKER; AYES – MCQUISTON AND BAROWSKY; NAYES – NONE) THERE HAS BEEN A VIOLATION AS SET FORTH IN THE COMPLAINT**

**MSC (MOTION: STARK; SECOND: MCQUISTON; AYES – HUNSUCKER AND BAROWSKY; NAYES – NONE) TO GRANT A GUIDE LICENSE TO MR. MONTGOMERY WITH A \$500 FINE TO BE PAID WITHIN 30 DAYS AND ONE YEAR RESTRICTED PROBATION.**

**Matthew Crockett, Case No 2018-059 – Guide License Hearing** – A guide license deferral hearing was scheduled to be prosecuted by the Board’s prosecuting attorney Kristen Atwood. Matthew Crockett, the applicant, did not appear. **MSC (MOTION: MCQUISTON; SECOND: HUNSUCKER; AYES – STARK AND BAROWSKY; NAYES – NONE) BASED UPON MR. COCKETT BEING DEFAULT FOR THE SCHEDULED HEARING, MR. CROCKETT’S GUIDE LICENSING HAS BEEN DENIED**

**Phillip R. Sharp Case No 2018-048 – Guide License Hearing** – A guide license hearing was conducted by the Board’s prosecutor Kristen Wood. Phillip R. Sharp, the applicant, was identified and placed under oath. Mrs. Atwood explained that Director Thomason, by board policy, had deferred Mr. Sharp’s guide license application due to the Enforcement Division’s review and scoring of Mr. Sharp’s criminal convictions disclosed on his application. Mr. Sharp is seeking a guide license to work for H&S Outfitters Inc. Mr. Sharp testified, and certain exhibits were introduced into evidence. **MSC (MOTION: MCQUISTON; SECOND: HUNSUCKER; AYES – STARK AND BAROWSKY; NAYES – NONE) TO GRANT A GUIDE LICENSE TO MR. SHARP WITH ONE YEAR GENERAL PROBATION.**

*With all hearing being complete Prosecuting Attorney Kristin Atwood excused herself at 11:00 a.m.*

**BOARD’S POSTION –IOGA’s Proposed Statue Change – MSC (MOTION: HUNSUCKER; SECOND: STARK; AYES – MCQUISTON AND BAROWSKY; NAYES – NONE) TO NOT**

**TAKE A FINAL POSITION UNTIL THE BILL HAS BEEN PRINTED AND INTRODUCED INTO LEGISLATION**

The next Board Meeting date has been set for March 19 and 20, 2019.

With no further business to come before the Board, Board Chairman Bob Barowsky adjourned the meeting at 11:30 a.m., Tuesday, December 11, 2018.

  
BOB BAROWSKY, BOARD CHAIRMAN      3-18-19  
Date

ATTEST:

  
LORI THOMASON, EXECUTIVE DIRECTOR      3-19-19  
Date